

# Exhibit A

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**Scott G. Weber, Clerk  
Clark County**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

DAVID NICHOLSON,

Plaintiff,

v.

BLEFA KEGS, INC., a Delaware Corporation;  
GRINDING AND POLISHING  
MACHINERY CORPORATION, an Indiana  
Corporation; and JOHN DOE  
MANUFACTURER 1-5,

Defendants.

No. 21-2-00589-06

COMPLAINT FOR NEGLIGENCE

Plaintiff David Nicholson alleges:

## I. JURISDICTION AND VENUE

1.1 This Court has subject matter jurisdiction over this cause of action under RCW  
2.08.010.1.2 Plaintiff David Nicholson is a resident of Vancouver, Clark County, Washington,  
and was injured in an incident taking place in Vancouver, Clark County, Washington.1.3 Defendant BLEFA Kegs, Inc ("BLEFA") is a Delaware Corporation,  
headquartered in La Vergne, Tennessee, and which transacts business in Clark Country,  
Washington.

COMPLAINT FOR NEGLIGENCE - 1

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1       1.4     Defendant Grinding and Polishing Machinery Corporation (“G&P”) is an Indiana  
2 Corporation, headquartered in Indianapolis, Indiana, and which transacts business in Clark  
3 County, Washington.

4       1.5     Defendants John Doe Manufacturers 1-5 (“John Does 1-5”) are Washington  
5 business entities or sole proprietorships who transact business in Clark County, Washington.

6       1.6     Collectively, BLEFA, G&P and John Does 1-5 may be referred to herein as the  
7 (“Defendants”).

8       1.7     Jurisdiction and venue are proper in Clark County, Washington, under RCW  
9 4.12.020, because Defendants transact business in Clark County, Washington, and the accident  
10 took place in Clark County, Washington.

## II. BACKGROUND FACTS

12       2.1     Plaintiff incorporates by reference and re-alleges Paragraphs 1.1 – 1.7 as if fully  
13 set forth herein.

14       2.2     On or about August 28, 2018, at approximately 7:30 AM, Mr. Nicholson was  
15 injured in the course of his normal duties working for Express Employment Professionals  
16 (“Express”) at BLEFA’s warehouse at 801 Northeast 109<sup>th</sup> Avenue, Suite G, Vancouver, Clark  
17 County, Washington.

18       2.3     BLEFA contracted with Express to provide various services, including staffing  
19 of various warehouse and industrial jobs.

20       2.4     While in the course of his duties for Express, Mr. Nicholson operated an industrial  
21 keg polishing machine at the BLEFA warehouse (the “Polishing Machine”).

22       2.5     Mr. Nicholson’s arm got caught in the rollers of the Polishing Machine.

23       2.6     Mr. Nicholson released the handlebar controls of the Polishing Machine, but  
24 neither the driver roller, nor the rotating keg stopped.

25       2.7     Mr. Nicholson was unable to reach the emergency shut off button on the far-left  
26 side of the Polishing Machine.

1       2.8     The Polishing Machine jerked and pulled his arm further into the rollers, causing  
2 a crushing injury.

3       2.9     Mr. Nicholson was stuck in the Polishing Machine until other workers helped him  
4 remove his arm.

5       2.10    Upon information and belief, G&P was the manufacturer of the Polishing  
6 Machine.

7       2.11    Upon information and belief, BLEFA was the owner of the Polishing Machine.

8       2.12    In the alternative, John Does 1-5 designed, manufactured, sold, distributed, and  
9 maintained the Polishing Machine.

10      2.13    Mr. Nicholson reasonably relied upon Defendants to design, manufacture,  
11 distribute, and maintain a safe industrial keg polishing machine.

12      2.14    The Polishing Machine was used within the reasonable, useful life of the product,  
13 and was not in visible disrepair.

14      2.15    Defendants were negligent in the design, manufacture, and/or maintenance of the  
15 Polishing Machine, and their negligence caused the incident described in Paragraph No. 2.1 –  
16 2.14 above.

17      2.16    Defendants were negligent in the training and operation of the Polishing Machine,  
18 and failed to provide a safe workplace for Plaintiff.

19      2.17    As a result of the accident, Plaintiff David Nicholson was seriously injured,  
20 suffered additional losses, including lost work, and incurred significant medical expenses in an  
21 amount to be established at the time of trial.

### 22                   III. CLAIMS AND CAUSES OF ACTION

23      3.1     Plaintiff incorporates by reference and re-alleges Paragraphs 1.1 – 2.17 as if fully  
24 set forth herein.

25      3.2     Defendants BLEFA and John Does 1-5 were negligent in causing the subject  
26 incident of August 28, 2018, in the following respects:

- 1 a. Failing to use reasonable care when maintaining the Polishing Machine;
- 2 b. Failing to provide adequate training and safeguards on and around the
- 3 Polishing Machine;
- 4 c. Failing to maintain its heightened duty to protect employees from harm; and
- 5 d. Failing to know of, discover and remedy an unsafe condition on the premises,
- 6 realizing that it involved an unreasonable risk of harm.

7 3.3 Defendant G&P and John Does 1-5 were negligent in causing the subject incident  
8 of August 28, 2018, in the following respects:

- 9 a. Failing to use reasonable care when designing, manufacturing, and selling a  
10 product;
- 11 b. Failing to maintain its heightened duty to protect the ordinary consumer from  
12 harm with its manufactured products; and
- 13 c. Creating a hazardous environment to the public and at workplaces by selling an  
14 unsafe product that could injure a member of the public.

15 3.4 Defendants had a duty to follow applicable Washington Department of Labor and  
16 Industry standards for lockout/tagout and machine safety (as codified through WAC Title 296 et  
17 sep.) and applicable American National Standards Institute (“ANSI”) requirements including but  
18 not limited to:

- 19 a. WAC 296-803-20005(1) written lockout/tagout program;
- 20 b. WAC 296-806-2008 operating control meeting requirement;
- 21 c. WAC 296-806-20010 protect employees from unintentional machine operation;
- 22 d. WAC 296-806-20028 safeguard employees from point of operation;
- 23 e. WAC 296-806-20030 safeguard employees from nip or shear point hazards;
- 24 f. WAC 296-806-20032 safeguard employees from rotating or revolving parts;
- 25 g. WAC 296-806-20044 make sure devices meet these requirements;
- 26 h. WAC 296-126-094 general duty-working conditions;

- 1        i. ANSI B11.0-2015 safety of machinery; and
- 2        j. ANSI B11.9-2010 safety requirements of grinding machines.

3        3.5 Defendants had a duty of care to Plaintiff, Defendants breached that duty of care,  
4 and Defendants' breach of their duty of care was the proximate cause of the damages to Plaintiff  
5 identified below.

6        3.6 Defendant G&P is a product manufacture within the meaning of the Washington  
7 Products Liability Act ("WPLA") and RCW 7.72.010.

8        3.7 Defendant G&P designed and manufactured the relevant product, the Polishing  
9 Machine, which was sold to Defendant BLEFA.

10       3.8 In the alternative, Defendants John Does 1-5 were product manufacturers within  
11 the meaning of the WPLA and RCW 7.72.010 and designed, manufactured, and sold the relevant  
12 product, the subject the industrial keg polishing machine.

13       3.9 The relevant product was not reasonably safe in construction when it left the  
14 Defendants' control on the grounds that the product deviated in a material way from design  
15 specifications, or performance standards.

16       3.10 Defendants are strictly liable to the Plaintiffs for the harm proximately caused by  
17 the fact that the subject product did not conform to the Defendants' express or implied  
18 warranties.

19       3.11 Defendants may also be strictly liable as a product seller under RCW 7.72.040.

20       3.12 The relevant product was unsafe to an extent beyond that contemplated by the  
21 ordinary consumer.

22       3.13 The Defendants are strictly liable to the Plaintiff David Nicholson for the harm  
23 proximately caused by the fact that the products that the Defendants manufactured and delivered,  
24 and that the Plaintiff used as intended, were defective and not reasonably safe.

25       3.14 Defendants are liable for the negligent acts and omissions of their employees and  
26 agents under the doctrine of *respondent superior* for the harm caused to Plaintiff.

## IV. DAMAGES

4.1 Plaintiffs incorporates by reference and re-alleges Paragraphs 1.1 – 3.14 as if fully set forth herein.

4.2 As a result of Defendants' negligent and wrongful conduct, Plaintiff sustained the following damages:

- a. pain, suffering and mental anguish;
  - b. lost wages, employment benefits, and earning capacity;
  - c. medical and other out of pocket expenses for care and treatment; and
  - d. permanent impairment.

## V. REQUEST FOR RELIEF

5.1 Plaintiff David Nicholson requests that judgment be entered against Defendants, jointly and severally, as follows:

- a. Awarding Plaintiff special damages for her medical and out of pocket expenses, lost wages and employment benefits, and loss of earning capacity in amounts to be established at the time of trial.
  - b. Awarding Plaintiff general damages for her pain, suffering, mental anguish and permanent impairment in an amount to be established at the time of trial.
  - c. Awarding Plaintiff her statutory fees and costs incurred in this action.
  - d. Awarding Plaintiff any further or additional relief which the court finds equitable, appropriate or just.

DATED this 31<sup>st</sup> day of March, 2021.

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Attorney for Plaintiff David